

111TH CONGRESS  
2D SESSION

# H. R. 4474

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## AN ACT

To authorize the continued use of certain water diversions located on National Forest System land in the Frank Church-River of No Return Wilderness and the Selway-Bitterroot Wilderness in the State of Idaho, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Idaho Wilderness  
3 Water Facilities Act”.

4 **SEC. 2. TREATMENT OF EXISTING WATER DIVERSIONS IN**  
5 **FRANK CHURCH-RIVER OF NO RETURN WIL-**  
6 **DERNESS AND SELWAY-BITTERROOT WIL-**  
7 **DERNESS, IDAHO.**

8 (a) AUTHORIZATION FOR CONTINUED USE.—The  
9 Secretary of Agriculture is authorized to issue a special  
10 use authorization to each of the 20 owners of a water stor-  
11 age, transport, or diversion facility (in this section referred  
12 to as a “facility”) located on National Forest System land  
13 in the Frank Church-River of No Return Wilderness or  
14 the Selway-Bitterroot Wilderness (as identified on the  
15 map titled “Unauthorized Private Water Diversions lo-  
16 cated within the Frank Church River of No Return Wil-  
17 derness”, dated December 14, 2009, or the map titled  
18 “Unauthorized Private Water Diversions located within  
19 the Selway-Bitterroot Wilderness”, dated December 11,  
20 2009) for the continued operation, maintenance, and re-  
21 construction of the facility if the Secretary determines  
22 that—

23 (1) the facility was in existence on the date on  
24 which the land upon which the facility is located was  
25 designated as part of the National Wilderness Pres-

ervation System (in this section referred to as “the date of designation”);

(2) the facility has been in substantially continuous use to deliver water for the beneficial use on the owner’s non-Federal land since the date of designation;

(3) the owner of the facility holds a valid water right for use of the water on the owner’s non-Federal land under Idaho State law, with a priority date that predates the date of designation; and

(4) it is not practicable or feasible to relocate the facility to land outside of the wilderness and continue the beneficial use of water on the non-Federal land recognized under State law.

(b) TERMS AND CONDITIONS.—

(1) EQUIPMENT, TRANSPORT, AND USE TERMS AND CONDITIONS.—In a special use authorization issued under subsection (a), the Secretary is authorized to—

(A) allow use of motorized equipment and mechanized transport for operation, maintenance, or reconstruction of a facility, if the Secretary determines that—

(i) the use is necessary to allow the facility to continue delivery of water to the

1 non-Federal land for the beneficial uses  
2 recognized by the water right held under  
3 Idaho State law; and

4 (ii) after conducting a minimum tool  
5 analysis for the facility, the use of non-  
6 motorized equipment and nonmechanized  
7 transport is impracticable or infeasible;  
8 and

9 (B) preclude use of the facility for the  
10 storage, diversion, or transport of water in ex-  
11 cess of the water right recognized by the State  
12 of Idaho on the date of designation.

13 (2) ADDITIONAL TERMS AND CONDITIONS.—In  
14 a special use authorization issued under subsection  
15 (a), the Secretary is authorized to—

16 (A) require or allow modification or reloca-  
17 tion of the facility in the wilderness, as the Sec-  
18 retary determines necessary, to reduce impacts  
19 to wilderness values set forth in section 2 of the  
20 Wilderness Act (16 U.S.C. 1131) if the bene-  
21 ficial use of water on the non-Federal land is  
22 not diminished; and

23 (B) require that the owner provide a recip-  
24 rocal right of access across the non-Federal  
25 property, in which case, the owner shall receive

1 market value for any right-of-way or other in-  
2 terest in real property conveyed to the United  
3 States, and market value may be paid by the  
4 Secretary, in whole or in part, by the grant of  
5 a reciprocal right-of-way, or by reduction of fees  
6 or other costs that may accrue to the owner to  
7 obtain the authorization for water facilities.

Passed the House of Representatives January 27,  
2010.

Attest:

*Clerk.*

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